

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

LLOYD ANTHONY CLINE,

Plaintiff,

V.

TOWN OF GRANITE FALLS,

Defendant.

CIVIL ACTION FILE NO.

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW Plaintiff, Lloyd Anthony Cline (“Plaintiff” or “Mr. Cline”), by and through undersigned counsel, The Kirby G. Smith Law Firm, LLC, and hereby files this Complaint against the Defendant Town of Granite Falls (“Defendant” or “Town”), stating as follows:

I. JURISDICTION AND VENUE

1. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 over Counts I-II of this Complaint, which arise out of the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq. (ADA).
2. This Court has jurisdiction over the parties of this action because the employment practices described herein took place in Caldwell County, North Carolina.
3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.
4. Plaintiff received his Notice of Right to Sue from the Equal Employment and Opportunity Commission (EEOC) and files this Complaint within the ninety (90) days prescribed.

II. PARTIES

5. Plaintiff is a citizen of the United States and a resident of North Carolina.
6. Defendant is a Town in the State of North Carolina.
7. Defendant may be served through its Mayor, Barry Hayes, located at 30 Park Square, Granite Falls, NC 28630
8. Defendant employed fifteen (15) employees or more at all times relevant to this lawsuit.
9. Defendant is subject to the requirements of the ADA.

III. FACTUAL ALLEGATIONS

10. Mr. Cline worked for the Town as a Senior Electrical Lineman.
11. Mr. Cline began his employment with the Town in August 2015.
12. Due to a back injury suffered at work, Mr. Cline had surgery on December 19, 2018 and April 1, 2019.
13. The first 12 weeks of his leave following the December surgery was protected by FMLA leave.
14. On March 22, 2019, Mr. Jerry Church, Town Manager, sent Mr. Cline a letter notifying him that FMLA protections had expired.
15. Mr. Church wrote: "In a nutshell, your FMLA has been exhausted and cannot be extended. You have the option of applying in writing to your supervisor, Electric Services Director Rick Sisk, for unpaid leave of up to twelve months which may be granted by me as Town Manager."
16. On March 29, 2019, Mr. Cline wrote a letter to Mr. Sisk that referenced the March 22 letter and asked for "leave without pay while I'm out of work due to a work injury and return back to work as soon as the Doctor releases me. I love my job as a Journeyman Lineman for the

Town of Granite Falls and all my co-workers and the public.”

17. On April 25, 2019, Mr. Cline emailed Mr. Church: “I would also like to know what’s going on about the Leave of Absence letter you sent me requesting for me to write a letter to Rick. I gave Rick the letter and he said he gave it to you the same day on March 29, 2019 and I have not heard anything about it yet as well.”

18. Mr. Cline did not receive a response to his April 25 email.

19. On May 3, 2019, Mr. Cline’s physician released him to work on light duty.

20. On May 6, 2019, Mr. Cline returned to work and notified Mr. Church and Mr. Sisk that he could be placed on light duty restrictions.

21. Approximately an hour after Mr. Cline arrived to work on May 6, Mr. Sisk sent him home and said that he would be contacted in a few days.

22. On May 21, 2019, Mr. Church sent Mr. Cline a letter in which he claimed to have consulted with the Town Attorney and concluded that he was unable to grant unpaid leave because Mr. Cline did not apply.

23. Upon information and belief, Mr. Church had knowledge that Mr. Cline had applied for unpaid leave in March 2019.

24. Mr. Church further claimed that Mr. Cline’s alleged failure to apply for leave constituted a resignation of his employment.

25. Mr. Church also told Mr. Cline that even if he had not resigned, the Town could not have kept the position open any longer because the department was short-staffed.

26. In July 2019, Mr. Cline was cleared by his physician to return to work without the light duty restriction.

27. Upon information and belief, the Town did not replace Mr. Cline until September 2019.

28. Upon information and belief, the person who replaced Mr. Cline did not have a disability.

IV. CLAIM FOR RELIEF

COUNT I

ADA DISCRIMINATION

29. Plaintiff incorporates by reference paragraphs 1-28 of his Complaint as if fully set forth herein.

30. Plaintiff had a disability as defined by the ADA.

31. Defendant had notice of Plaintiff's disability.

32. Plaintiff suffered the adverse action of termination.

33. With the reasonable accommodation of temporary unpaid leave and light duty, Plaintiff could have performed the essential functions of his position.

34. The circumstances of Plaintiff's termination serve as evidence that the adverse action was discriminatory on the basis of Plaintiff's disability.

COUNT II

ADA DISCRIMINATION (FAILURE TO ACCOMMODATE)

35. Plaintiff incorporates by reference paragraphs 1-34 of his Complaint as if fully set forth herein.

36. Plaintiff had a disability as defined by the ADA.

37. Defendant had notice of Plaintiff's disability.

38. With the reasonable accommodation of unpaid leave and light duty, Plaintiff could have performed the essential functions of his position.

39. Defendant refused to make the necessary reasonable accommodations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

- a. Trial by jury;
- b. A finding that Defendant violated Plaintiff's rights as set forth herein;
- c. Full back pay plus interest, front pay, compensatory damages, punitive damages, liquidated damages, reasonable attorney fees, and costs in accordance with the ADA; and
- d. Any other relief this Court deems proper and just.

Respectfully submitted this 8th day of December, 2020.

THE KIRBY G. SMITH LAW FIRM, LLC

s/Alexander C. Kelly
Alexander C. Kelly
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Attorney for Plaintiff

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JURY DEMAND

Plaintiff requests a jury trial on all questions of fact raised by this Complaint.

Respectfully submitted this 8th day of December, 2020.

THE KIRBY G. SMITH LAW FIRM, LLC

s/Alexander C. Kelly
Alexander C. Kelly
North Carolina Bar No. 49308
Attorney for Plaintiff

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